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SUMMARY RECORD OF THE 47th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 March 1993, at 10 a.m.

Chairman: Mr. ENNACEUR (Tunisia)

later: Mr. FLINTERMAN (Netherlands)

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The meeting was called to order at 10.20 a.m.

STATEMENT BY MR. HABIB BEN YAHIA, MINISTER FOR FOREIGN AFFAIRS OF TUNISIA

1. Mr. BEN YAHIA (Minister for Foreign Affairs of Tunisia) said that everyone had come to recognize the important role that the United Nations played in disseminating the culture of human rights and in setting up the mechanisms for their promotion and protection. He paid tribute to the Commission on Human Rights for its work, which had greatly contributed to developing the universal values and principles that consecrated the aspirations of humanity to dignity, freedom and justice. It was also important to underscore the useful role of the non-governmental organizations (NGOs), one of the pillars of that noble humanitarian endeavour, whose efforts in the service of human rights were most meritorious. To cite only recent developments, Tunisia too had contributed to the efforts to promote and protect human rights by holding, in Tunis in November 1992, the Regional Meeting for Africa in preparation for the World Conference of Human Rights, which had led to the adoption of the Tunis Declaration. That text clearly reflected the determination of the African countries to promote the basic rights of human beings and to ensure their realization as part of a global vision founded upon a double principle: the universality of human rights and the interdependence between civil, political, economic, social and cultural rights. Other important events had also taken place in Tunis, notably the preparatory meeting for the World Conference on education for human rights and democracy, in December 1992.

2. The attachment of the Tunisian people to the lofty human values of freedom and democracy had been at the origin of the reforms undertaken in Tunisia in the nineteenth century and, later, of the national movement that had led to independence and the building of a confident and balanced society, with the establishment of modern institutions, the dissemination of education and the flourishing of culture, the emancipation of women and an opening up to the future. Since the change of government of 7 November 1987, the great progress made in Tunisia in the field of human rights had essentially enabled the Tunisian people to take its destiny into its own hands in a system that protected and developed democracy, which was the foundation for building a new society, free in its choices and responsible for its acts. Fundamental political reforms had been made, most notably the revision of the Constitution and the setting up of institutions whose purpose, in part or in full, was to promote and protect human rights, such as the Constitutional Council, the High Committee for Human Rights and Fundamental Freedoms and the human rights units in the various ministries responsible for monitoring implementation of the relevant international and regional conventions. With the reform of the Criminal Code and the Code of Criminal Procedure, the penalty of forced labour had been abolished and limits placed on the length of pre-trial detention. Tunisia had also ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and had adopted, by presidential decree, the United Nations Standard Minimum Rules for the Treatment of Prisoners. Other measures were also envisaged, in particular further restriction of the duration of pre-trial detention.

3. Various laws had been adopted to strengthen the democratic process and bolster the principle of a multi-party system. In particular, it was planned to adopt a new balloting system in anticipation of the next legislative

elections, combining the systems of majority and proportional representation. Legislation had been amended to bring it into line with changes in society and to introduce the necessary guarantees for consolidating the attainments and rights of Tunisian citizens.

4. The Tunisian Government had not confined itself to promulgating legislation and creating new institutions. It had also worked to develop the teaching of human rights in primary and secondary schools and in universities, as well as within the framework of the training of law enforcement personnel (judges and the police). The educational system had been reformed to that end. The Government had also encouraged the creation of associations, of which there were currently 6,000, and had promoted the activities of such international humanitarian organizations as Amnesty International, El-Taller, Greenpeace and the African Commission for Rights and Development, allowing them to open offices in Tunis. Furthermore, convinced that human rights were meaningless in a society in which women were not the equals of men, the Tunisian Government had taken measures over the past five years to further the progress made by women in a number of areas and to enable them fully to exercise their rights and to discharge their obligations so that they could take their rightful place in society. Draft legislation to amend the Personal Status Code to adapt it to the changes affecting Tunisian women was being prepared.

5. Whether individual or collective, civil and political or economic, social and cultural, human rights constituted an indivisible whole, and following the change of government of 7 November, Tunisia had declared that there could be no democracy without development and no development without democracy, and it had invariably applied that principle when adopting decisions for promoting human rights and fundamental freedoms. Aware of the ever-present need to reconcile the interests of the individual with those of society and, as a consequence, to protect society from any danger of anarchy arising out of religious and ethnic extremism, and intent on preserving Islam's image, the Tunisian Government had taken the initiative in a number of regional bodies to launch an appeal for a joint stance and cooperation to tackle the phenomena of extremism and terrorism, an appeal that had won widespread support in the League of Arab States, the OAU, the Organization of the Islamic Conference and the Non-Aligned Movement. The disquieting growth of xenophobia directed against migrant workers in the developed countries had prompted the General Assembly of the United Nations to adopt an International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In that regard, Tunisia, which had the honour to chair the Arab Maghreb Union, had proposed that the European Economic Community should adopt a convention guaranteeing the rights of Maghreb immigrants in Europe.

6. The universal character of human rights could not be overemphasized. Human rights were also interdependent, and States and international organizations should therefore eschew any selectivity in their human rights activities and avoid establishing a hierarchy between civil and political rights and economic, social and cultural rights. The profound changes on the international scene had contributed greatly to mapping out the outlines of a new world order based upon cooperation and respect for the rule of law and human rights with a view to guaranteeing international peace and security. Those changes had confirmed the attachment of all peoples to the notions of dignity and freedom and their determination to contribute to fostering human

rights, particularly in their own countries. However, today more than ever, human rights and the democratization process under way in most third-world countries faced many dangers. Greater efforts and sacrifices must be made at the national and international levels to prevent conflicts and avoid flagrant violations of the most elementary principles of international humanitarian law. Moreover, it was clear that the promotion and consolidation of human rights depended upon whether the international community could give economic and social questions the importance that they deserved and establish a new world order that helped to create a social and economic climate itself conducive to helping those noble principles take root. In that context, Tunisia fully supported the debt relief measures taken in favour of a number of developing countries in order to give new impetus to the democratic process. It was to be hoped that the middle-income countries would also benefit from those decisions and that the rich countries would conclude cooperation agreements based on a partnership between the developed countries and the developing countries for carrying out development projects of common interest. Tunisia was convinced that all efforts to create a more equitable world order would serve to promote in every way the democratic process and respect for human rights in the developing countries.

7. Despite the promising evolution in international relations towards greater respect for the rights of individuals and peoples, the world was currently facing grave problems that posed threats to international peace and security, one of the most important being the conflict in the Middle East, where the Palestinian people was the victim of an injustice that had lasted all too long. Persuaded that peoples' rights were an integral part of human rights, Tunisia would continue to support the struggle of the fraternal Palestinian people to exercise its right to self-determination. It approved the Palestinian people's decision to continue negotiations and dialogue with a view to successfully concluding the peace process embarked upon within the framework of the international rule of law. It appealed to the international community to assume its responsibilities and take the requisite measures to put an end to the violations of the rights of the Palestinian people and the policy of settlement aimed at modifying the demographic, social and cultural structure of the occupied territories.

8. Tunisia had been one of the first countries to support the people of South Africa in its struggle against apartheid. It had noted with satisfaction the positive changes in that region and the progress made towards creating conditions conducive to building a new democratic society characterized by non-discrimination and equality of opportunity for all, and it expressed the hope that the South African people would be able to enjoy its legitimate rights in the near future.

9. Determined to defend human rights as an indivisible whole, Tunisia had reaffirmed on numerous occasions its unconditional support and backing for the people of Bosnia and Herzegovina. It voiced its profound indignation at the practices used against the Bosnian people, which constituted violations of the most elementary human values. While welcoming the positive decisions taken by the Commission on Human Rights to encourage respect for human rights in the occupied Arab territories, South Africa and Bosnia and Herzegovina and the Commission's considerable efforts to guarantee the right of peoples to

self-determination, Tunisia appealed to the international community to step up its activities further with a view to putting an end to the sufferings of peoples under the yoke of foreign colonization.

10. The favourable climate that characterized the work of the current session testified to the Commission's determination to carry out its mission properly. The World Conference on Human Rights, to be held in Vienna in June 1993, would provide an opportunity for all the members of the international community to pursue consideration of the best means of ensuring the worldwide realization of human rights and to strengthen the spirit of solidarity and cooperation in the area of the fundamental rights of the human person, thereby creating optimum guarantees for peace, security and stability in the world.

11. Mr. Flinterman (Netherlands) took the Chair.

STATEMENT BY MR. EMEKA ANYAOKU, COMMONWEALTH SECRETARY-GENERAL

12. Mr. ANYAOKU (Commonwealth Secretary-General) said that, in recent years, numerous changes had taken place in the world that offered promise of a better future for humanity. The wind of democracy had begun to blow in many countries, and freedom had become a reality for millions. Despite the difficulties that the United Nations and other international and regional organizations very often faced in carrying out their work, it was becoming increasingly clear that to resolve world conflicts, build peace, provide emergency assistance to those suffering from famine or natural disaster and confront worldwide environmental challenges, a system of global governance was no longer an option but a necessity. In the words of the Commonwealth Heads of Government at their meeting in Nassau in 1985, "in the future of the United Nations lies the future of humanity".

13. The latest meeting of Commonwealth Heads of Government, held in Harare, Zimbabwe, was of particular significance, because it had provided the opportunity for the members of the Commonwealth to reaffirm the principles that they had enunciated in Singapore 20 years earlier and to report on the measures taken since then to give them substance.

14. The Heads of Government had pledged to work to protect and promote the fundamental political values of the Commonwealth, namely democracy and democratic processes and institutions that reflected national circumstances, the rule of law and the independence of the judiciary, just and honest government and fundamental human rights based on equality for all citizens, regardless of race, colour, creed or political belief, as well as to achieve equality for women, sustainable development and the alleviation of poverty in the countries of the Commonwealth. They had adopted the Declaration of Harare by consensus after an informal debate and exchange of views.

15. That particular way of working showed that in a world in which important decisions were usually taken by regional groups, the Commonwealth was able to unite the various blocs and groups, making possible unanimous and consensual action on a great variety of questions. The Heads of Government themselves took those decisions, and they knew very well that they must implement them, because their declarations and agreements were a matter of public record.

16. The Harare Commonwealth Declaration had also set in train practical programmes aimed at giving substance to a number of principles and precepts. In particular, the Heads of Government had sought to strengthen the capacity of the Commonwealth to promote cooperation among its members in entrenching the practices of democracy and defending the rule of law. To that end, national elections held in any given Commonwealth country were monitored, at the request of that country, by observers from other Commonwealth countries. Thus, since October 1990, he himself had organized eight such missions to Malaysia, Bangladesh, Zambia, Guyana, Seychelles (in two phases), Ghana and Kenya and would probably organize another to Lesotho at the end of March.

17. It would be wrong to pretend that those undertakings had been entirely free of difficulties or controversy. But the presence of observers, chosen for their integrity and independence, had helped advance the cause of democracy and human rights. In many instances, the missions had been accompanied by extensive technical assistance, for example in adapting a constitution or compiling an electoral register.

18. The Commonwealth also contributed to efforts in the field of human rights by facilitating exchanges among individuals, groups and organizations engaged in human rights promotional work, furthering human rights awareness through education and training and strengthening national institutions and mechanisms for the promotion and protection of human rights. For all those activities, it relied greatly on the NGOs accredited to it.

19. With regard to the substance, the Commonwealth believed that basic human rights principles must concern all activities without exception, whether they were in the political, economic, social or cultural field. Furthermore, while it was increasingly acknowledged that democratic structures and accountable government provided the best guarantee for the active participation of peoples in the governance of their countries, they were not sufficient in themselves to meet the basic needs of the population. Hence the need to strengthen the economic base of countries and establish a social order in which all sectors of society could feel secure.

STATEMENT BY MR. AMOS WAKO, ATTORNEY GENERAL OF KENYA

20. Mr. WAKO (Attorney General of Kenya) said that the Commission was meeting at a time when the wind of democracy was blowing around the world, bringing with it a greater awareness of the inherent worth and dignity of each and every person. The international community was critically reassessing its achievements and failures in the field of human rights and considering ways to enhance respect for those rights. Hence the importance which Kenya attached to the World Conference on Human Rights.

21. When Kenya had attained independence in 1963, the new Government had faced many problems, some of which still remained unsolved: the need to eradicate poverty, ignorance and disease and at the same time to unite a nation out of an amalgam of different ethnic groups, tribes and races. The task was not easy, as recent events in the former Soviet Union and certain parts of Eastern Europe and the African continent had shown. Like many other third world countries, Kenya had opted for a one-party political system, the two parties that had won the pre-independence general elections having voluntarily merged.

22. In December 1991, Kenya had decided to introduce a multi-party system. The Constitution and other laws had been amended to permit the holding of general elections, in which eight parties had taken part. All the observers of governments and intergovernmental organizations from all over the world had agreed that the elections had taken place without fraud or irregularities favouring any of the candidates, parties or regions. Consequently, the results had reflected the wishes of the population. Persons or candidates of the majority or the opposition who had wished to contest the results had had the right to file election petitions. Lastly, 88 of the 188 parliamentarians elected were from the opposition, and Kenya had thus started out successfully on the road to democracy, based on a multi-party system. But for that difficult process to be completed, patience and restraint were necessary. The international community must take into account the difficulties facing countries like Kenya that had recently embarked upon the path to democracy and must give those countries its support.

23. The issues were complex. Freedom of expression, for example, was not only a fundamental right of the individual, but also an essential requirement for the smooth functioning of a democratic society. That freedom was restricted in all countries by legislation prohibiting defamation, in accordance with article 20, paragraph 2, of the International Covenant on Civil and Political Rights, which prohibited "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence". That being the case, it was surely legitimate for the Governments of African countries torn in the past by tribal and ethnic conflicts to seek to achieve a healing of society, and not its destruction, by legislating against those who instigated hostility and hatred. Those factors must be borne in mind before condemning the lawful measures taken by the authorities against, for example, publications that incited inter-tribal hatred.

24. In promoting human rights, the international community must examine the problem of all human rights and democratization. Parallel to the civil and political rights that had presided at their creation, the new multi-party democracies must focus on the economic, social and cultural rights of their citizens and never neglect the link that existed between democracy and development. Without democracy, there could be no peace or an environment favourable to development. Without development there could be no sustainable democracy.

25. The international community could greatly assist the new democracies, which were confronted with enormous economic and social problems that sometimes gave rise to abuses. As the World Bank had observed, it would be difficult for Africa to achieve economic and social progress because of its external debt. Africa was the only region of the world where the number of people living in poverty would increase by the year 2000. It was equally clear that in certain instances, the economic, monetary and fiscal policies that the International Monetary Fund (IMF) was attempting to force upon the third world countries, particularly in Africa, interfered with rather than facilitated economic recovery. The international community and the United Nations must recognize that the external debt and certain prescriptions of the IMF, which had a direct adverse impact on the enjoyment of economic and social rights, were in fact human rights issues. Those factors must be taken

into account at the international level; economic and social rights must be promoted with the same zeal as pluralistic democracy, through increased direct assistance at the multilateral and bilateral levels.

26. Kenya was particularly attached to the fundamental rights and freedoms of the individual in the area of the administration of justice. The Ministers of Justice of the east, central and southern African States, meeting in October 1992 to examine the question of the administration of justice and human rights, had noted that many African Governments had often been accused of gross human rights violations or indifference to them. While acknowledging the truth of some of the allegations, the Ministers had concluded that, in that area, the problem had not been one of intentional violation or indifference, but rather lack of resources at all levels of the administration of justice. In third world countries generally, the police were ill-equipped and poorly trained and paid; judges were poorly paid too, judicial structures were unsatisfactory or archaic, and prison conditions did not meet the minimum standards prescribed in the instruments to which those countries were parties. Advisory services were inadequate. The Ministers had therefore appealed to their Governments to allocate more resources to the administration of justice and to the international donor community to provide support in that area. They had reaffirmed that the rule of law and the administration of justice were indispensable for sustainable economic and social development. The participants in the Regional Meeting for Africa in preparation for the World Conference on Human Rights, held in Tunis in November 1992, had also considered that matter and resolved to put it before the Conference. Similarly, the thirty-second session of the Asian-African Legal Consultative Committee, meeting in Kampala, Uganda, at the beginning of February, had adopted a declaration which, among other things, called upon Governments and the international donor community to increase their investments in the area of the administration of justice.

27. Those views were contained in a resolution which the African Group sought to have the Commission endorse. The real victim of the inadequacies in the administration of justice was the silent majority in each country, who no one defended. Kenya was therefore convinced that national institutions concerned with the administration of justice, human rights and democracy should be strengthened, for example by increasing the capacity of the United Nations programme of advisory services and technical cooperation.

28. Kenya acknowledged the role played by the NGOs in the field of human rights, which supplemented the work of the United Nations. With the proliferation of NGOs, however, some caution was needed to ensure that those organizations were sincerely committed to promoting human rights and were not using that cause to other ends. The NGOs must take the trouble to study and understand the society in which they were operating so that the right decisions and initiatives could be taken.

29. Unlike States, which at times were influenced by their own national interests or by other considerations extraneous to the promotion of human rights, the United Nations could be more objective and impartial, thereby reflecting the collective will of the international community. The achievements of the Organization in that regard were all the more remarkable in view of the limited resources of the Centre for Human Rights. There was an urgent need to strengthen the existing mechanisms and procedures and to

emphasize the indivisibility of human rights, both in theory and in practice. It was to be hoped that the forthcoming World Conference would help the United Nations to realize its full potential in the field of human rights.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1993/7 - E/CN.4/Sub.2/1992/55, E/CN.4/1993/37-40, 41 and Add.1, 42-49, 75, 76, 79, 82, 86, 95, 99 and 102; E/CN.4/1993/NGO/6, 8, 12, 16, 23, 26-28, 31 and 38; E/CN.4/1992/29, 30 and Add.1, 32-34, 50 and Add.1 and 51; A/47/240, 367 and Add.1, 596, 617, 621, 625 and Corr. 1, 651 and 656)

30. Mr. GALINDO POHL (Special Representative of the Commission on Human Rights), introducing his final report on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1993/41), said that it formed a whole with the interim report that he had submitted the previous year to the General Assembly under the symbol A/47/617. The chapter entitled "Considerations and observations" reflected the opinion that he had reached on various aspects of the situation in the country with regard to human rights and fundamental freedoms. His conclusions and recommendations were based upon the chapter on the facts and on allegations of which he had been informed and which he had assessed in the light of the international instruments in force.

31. He had received further information after the completion of the final report. He had learned that the body of Mr. Ghorbani had been found at the end of January 1993 by the Turkish authorities. According to the forensic physician, Mr. Ghorbani had been horribly tortured. The persons allegedly responsible had stated that the Iranian intelligence services had sent five of their agents to Turkey to bring Mr. Ghorbani back to Iran. It had also been learned that the names of five well-known members of the political opposition had appeared on a list confiscated from Iranian agents in Germany. Given the circumstances, it was feared that those persons were in danger of suffering reprisals.

32. To analyse the allegations that he had received concerning probable or verified facts and to draw conclusions, he had assessed them in the light of the standards set forth in the international instruments to which the Islamic Republic of Iran was a party. The United Nations human rights instruments had a universal character; they were the common denominator of cultures, regions and countries, no matter how different they were. The universal system for the protection of human rights that had been instituted by the United Nations was founded upon points common to all human beings, regardless of religion, ethnic origin or other particularities, and civil and political rights must be implemented by all nations, irrespective of their culture, their traditions, their degree of development or their conviction that they constituted a unique entity. In each of the entities that constituted a State, there could be factors, such as lack of information or inadequate training of certain personnel, that complicated the implementation of the universal system of civil and political rights, and under those circumstances official organs and non-governmental organizations alike must overcome those shortcomings. Teaching of human rights must begin in primary school and be intensified in later schooling, and those responsible for public order, the administration of justice and prison establishments should also receive training on the subject.

33. Such teaching must take place within the framework of a national system in which universally recognized human rights had their place. The implementation of those rights, which would be to the benefit not only of the inhabitants of each country, but, collectively, of all countries, must be regarded not as a burden but as a method of ensuring the dignity of the individual in all societies and enabling citizens to express themselves fully in complete security, in the final analysis as a factor of social development and, concretely, a way of organizing societies capable of facing the problems raised today by the internationalization of all aspects of human interests as well as scientific and technical progress.

34. The Islamic Republic of Iran had an ancient culture rich in intellectual and artistic achievements, with very considerable human and material resources. It therefore had a special place in the concert of nations, and that had led it to believe that it could consider human rights from its own perspective. If other countries, for equally good reasons, were to embark upon the same path, the universal system would be compromised. That system, based on what united and not on what divided, was far from being incompatible with national particularities. On the contrary, it offered the outside help needed for dissemination and education, it assisted countries in setting up their own system in accordance with international standards, and it gave a special place to education, the exchange of information on experiences and the analysis of difficulties. It also made it possible to assess all particularities as a function of a common, recognized and accepted objective: the uplifting of the individual, irrespective of his ethnic origin, language, religion, economic situation or political opinions. Lastly, the system was a part of international solidarity, i.e. of the economic, moral and legal assistance to all societies, as well as the sharing of burdens - proportional to possibilities - and advantages, because without solidarity, the internal order and the international order would be fragile indeed.

35. The universal system of human rights was only inflexible with regard to its principles, its norms and its impermeability to national and regional systems that did not have the supreme objectives common to all societies and human beings.

36. According to the Iranian Government, the system erred in that the interpretation of the rules and the assessment of the facts could differ according to the culture. In its view, revision was therefore necessary, and it was essential to adopt a normative system corresponded to each type of culture, and if possible to each country. In his opinion, the use of regional mechanisms to implement human rights was in no way inconsistent with the principle of universality, and it could even enrich the international system, but once they departed from universal principles and norms, regional instruments should not take precedence over institutions endorsed by the United Nations.

37. He therefore reiterated that the Islamic Republic of Iran was bound, in conformity with the international instruments to which it was a party, to bring its legal system, and in particular its judicial and prison system, into line with the international norms recognized by Iran. It must also ensure that the concrete implementation of those norms was consistent with the international system, because there was often a great difference between

legislation in theory and in practice; theoretical legislation could remain inoperative if it was not enforced by competent and upright persons in responsible positions.

38. With regard more specifically to the compatibility between Islamic law and international law in the field of human rights, that subject had been discussed publicly in Tehran in recent months. In that debate, a high government official had stated that the Iranian Government only adhered partly to the Universal Declaration of Human Rights, because it contained principles that were incompatible with Islamic law. He had suggested to the Iranian representatives that they should undertake a detailed study of the subject in collaboration with an expert on Islamic law. In so doing, he had demonstrated his desire to cooperate. An era of dialogue seemed, in fact, to be dawning: for example, the Iranian Government had responded to two memoranda in which he had drawn attention to information that had been reported to him from various sources. The official reply to the first memorandum appeared in the body of the report, and the reply to the second had been included as an addendum. Moreover, on 9 February 1993, the Iranian Government had notified him, in a very detailed report that for lack of time he had not been able to include in the final report, that it had suspended or reduced the wide variety of sentences of 1,700 prisoners. Those measures of clemency were very encouraging, and he urged the Iranian Government not to stop there, particularly with regard to political prisoners.

39. The final report highlighted the main points of the criticism levelled against the Iranian system: it was illogical, and it engaged in irregular practices and violations of the human rights enshrined in the international instruments, both from the normative point of view and in the application of those regulations. On the basis of the information reproduced in the two reports, he recommended continued international monitoring of the situation of human rights and fundamental freedoms in the Islamic Republic of Iran.

40. Mr. DAVIDSE (Netherlands) drew the Commission's attention to the very topical question of the serious violations of women's rights. Every day, just a few hundred kilometres from Geneva, women were being raped on a massive scale. Those rapes must be regarded as war crimes and the persons responsible prosecuted.

41. The case of the former Yugoslavia compelled the Commission to take a broader look at women's human rights, because that case was part of a pattern of neglect of those rights. Mistreatment of and violence against women was of particular concern to his delegation. The issue was of special importance in view of the forthcoming World Conference on Human Rights.

42. The Commission on Human Rights and other United Nations bodies had at times been wary of establishing new bodies or norms for specific groups. Nevertheless, important conventions, such as the one on racial discrimination or on children's rights, had been adopted because it had been recognized that although the Universal Declaration of Human Rights and the International Covenants provided adequate protection for all people, regardless of race, sex or religion, certain groups required special attention.

43. Women's rights had already been addressed separately, in the Convention on the Elimination of All Forms of Discrimination against Women, adopted

in 1979, and the Commission on the Status of Women would have before it a draft declaration on violence against women. The purpose was not to put women into a special category as an especially vulnerable group. On the contrary, the intention was to highlight the fact that women, because they were women, were victims of particular human rights violations.

44. Violence against women should not be solely an issue for the Commission on the Status of Women. Other human rights-monitoring mechanisms had equal responsibility to take the rights of women into account, and in particular violence against women. A number of the Commission's rapporteurs and working groups did so, by highlighting in their studies the consequences that certain policies, practices or situations could have for women. They must be encouraged to continue along that path, and future requests from the Commission for human rights monitoring should include a reference to violations of women's rights; conclusions and recommendations should be formulated concerning those rights and ways to improve their implementation.

45. Thus, the Commission should focus systematically on the rights of women and give particular attention to violence against women. It should address that aspect of human rights under all items on its agenda, and not in an isolated fashion. In fact, the entire United Nations system should take up the issue, reaffirming the obvious fact that women's rights were part of universal human rights.

46. The Netherlands strongly supported the draft declaration on violence against women, especially as it reaffirmed the importance of existing norms and procedures and was a means of focusing renewed attention on those issues. Once the Commission on the Status of Women and the General Assembly had adopted the declaration, the next step would be to consider means of promoting its implementation and to decide whether existing mechanisms were sufficient to ensure compliance.

47. Clearly, it had been difficult to address effectively within the framework of the United Nations the pervasive phenomenon of violence against women. Governments pointed to the fact that in many cases they were not the cause of that phenomenon. Nevertheless, they were responsible for the harm that their agents inflicted upon people, and it was incumbent upon them to promulgate adequate legal provisions to protect women's rights. In the Netherlands, for example, rape and violence committed against women within marriage were regarded as crimes. The United Nations and, more specifically, the Commission on the Status of Women and the Commission on Human Rights should monitor the performance of Governments in that area. The challenge must be faced, because the universal protection of human rights could not be achieved unless the rights of women were specifically included.

48. The CHAIRMAN invited Mr. van der Stoel, Special Rapporteur on the situation of human rights in Iraq, to present his report (E/CN.4/1993/45).

49. Mr. VAN DER STOEL (Special Rapporteur on the situation of human rights in Iraq) noted that the Permanent Mission of Iraq in Geneva had recently distributed a document stating that mortality had increased alarmingly in Iraq. According to the Iraqi Government, the sanctions imposed by the Security Council were the cause. The Iraqi Government seemed to forget that Security Council resolutions 706 (1991) and 712 (1991) envisaged allowing Iraq

to export oil in return for foodstuffs and medicine. Unfortunately, Iraq had rejected that arrangement, which would certainly have enabled many lives to be saved. He hoped that Iraq would change its position and that it would be possible to reopen negotiations on the subject.

50. Given the current health and nutritional situation in Iraq, it was all the more difficult to understand why the Iraqi Government was preventing the humanitarian organizations of the United Nations from carrying out their work in the country. The resultant considerable drop in humanitarian aid would only worsen the suffering of the Iraqi people.

51. Despite a memorandum of agreement recently signed between Iraq and the United Nations, the Iraqi authorities had imposed an economic blockade upon the governorates in the north of the country, controlled by the Kurds. In that connection he recalled that Security Council resolution 688 (1991) insisted that "Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations". If Iraq continued to refuse to cooperate with international humanitarian organizations seeking to assist the Kurds, it was incumbent upon the international community to assume that role, but without breaking the commitment of all Member States to the sovereignty, territorial integrity and political independence of Iraq (Security Council resolution 688 (1991)).

52. Concerning the situation of human rights in Iraq, he regretted to say that there was no sign of improved respect for the rights of individuals and that the repression was continuing as in the past. In that regard, the Iraqi Government had the habit of invoking exceptional circumstances, in the case in question the embargo decided upon by the Security Council, to explain why human rights could not be fully guaranteed. Yet even under exceptional circumstances international law did not allow massive and systematic human rights violations, such as arbitrary arrests, summary and arbitrary executions, enforced disappearances or torture.

53. In the south of the country, the delimitation of an air exclusion zone had made it possible to put an end to the aerial bombings. Yet the heavy bombardment of the region by Iraqi artillery and the economic embargo continued. Moreover, a programme to drain the marshes had been started, and it was clear that the objective was not only to make more arable land available but also to be able to control the population more closely. In that connection, he referred to the "Plan of Action for the Marshes" approved by the Iraqi President himself (E/CN.4/1993/45, annex I, document No. 18), according to which "security operations" (executions, including by poisoning, demolition of houses, etc.) were to be conducted against the subversives living in the marshes; punitive operations were to be carried out from time to time against residents of the marshes who had collaborated with the subversives; an economic blockade was to be imposed upon the villages and areas in which subversives were operating; and consideration was to be given to the possibility of regrouping the marsh villages on dry land, where it would be easier to control their population. The Iraqi Government had claimed that that document was a forgery, but it was part of a set of documents discovered in the Kurdish region of the country after the retreat of the Iraqi army. It was unlikely that the Kurds, who had scant resources and already had

numerous difficulties to overcome, could have launched such a sophisticated propaganda operation.

54. The situation of human rights in Iraq was thus very serious. For that reason, he had proposed sending observers to the country to monitor developments. The proposal had been rejected by Iraq, which considered it to be a form of colonialism. The General Assembly of the United Nations had, however, voted in favour of the proposal and had invited the Commission on Human Rights to revert to the question at its forty-ninth session. If the Iraqi authorities believed that his report gave a false picture of the human rights situation in Iraq, they would be well advised to allow observers to visit the country to settle the issue. On the other hand, if the Iraqi authorities continued to reject the presence of those observers, that meant that they did not want the international community to know the truth. Furthermore, if they continued to refuse to cooperate with the United Nations or to agree to the presence of observers on their territory, it would be necessary, in order to obtain information, to turn to witnesses who had left Iraq. He called upon the Commission on Human Rights to allow him to consult the Secretary-General on the question.

55. Mr. BANYIYEZAKO (Burundi), speaking in exercise of the right of reply, said that on the previous day, the representative of Amnesty International had maintained that the Burundi authorities had refused to investigate the extrajudicial executions of the past two decades, notably the cases of some 1,000 persons said to have been killed by the security forces in November-December 1991.

56. The representative of that NGO should refer to the Burundi delegation's statements to the Commission on 12 and 22 February. It was common knowledge that Burundi had gone through periods of political unrest that had resulted in many victims. Each time, however, the people had been able to restore peace. Investigations had been conducted, and those responsible had been punished in accordance with Burundi legislation. For nearly five years, the authorities had been carrying out a policy of national reconciliation. On the basis of the work of the national commission to study the question of national unity, and following discussions in which more than 60,000 persons had participated, a charter of national unity had been adopted in February 1991 by more than 90 per cent of the Burundi population.

57. The representative of Amnesty International had referred to an impressive number of persons alleged to have been the victims of extrajudicial executions in November-December 1991. That NGO would have to be more concrete, by citing specific cases. As far as the authorities knew, the events in question had claimed 500 victims. The persons apprehended were currently on trial in the courts in accordance with the judicial procedures in force. Amnesty International was well aware of all that and his delegation was increasingly surprised at the misconceptions that that NGO knowingly spread on the issue, despite the fact that it could visit Burundi whenever it wanted and obtain the information on that country that it wished.

The meeting rose at 1 p.m.